

## Summary of Comment from the Notice of Intended Regulatory Action

November 2006

<b>Comments - General</b>	<b>Organization</b>
Focus on inaccuracies or inflexible aspects of regulation.	VA Chamber of Commerce Natural Resources Committee, VMA
Improve in light of new EPA assessment guidance 303(d).	VA Chamber of Commerce Natural Resources Committee
Will be affected by a number of the issues identified in the NOIRA.	Dominion
Use best, current scientific information and make sure EPA guidance appropriate for VA.	VAMWA
Given the recent financial, technical burden placed upon WWTF due to the Bay commitments for nutrient reductions focus on streamlining or minimizing additional regulatory burdens where consistent with good science.	VAMWA
Request to participate on ad hoc committee.	CBF, Dominion, Navy, VAMWA, VA Chamber of Commerce Natural Resources Committee, VA Coalfields TMDL Group, VMA
<b>Comments – Designated Uses</b>	
Concern about the lowering of designated uses, move cautiously, specify what constitutes reasonable grounds documentation for a private party to conduct a use attainability analysis.	CBF
Use designations made in the 1970's without scientific foundation and in need of revision or refinement along with related criteria.	VA Coalfields TMDL Group, VMA
<b>Comments – Criteria</b>	
Supports development to total dissolved solids criteria.	CBF, SELC
Provided technical literature that evaluated total dissolved solids toxicity to aquatic organisms and provided general summaries of finding/conclusions. Also provided a summary of EPA and other states standards and TMDL targets. Believes via the information submitted that the goal used in Virginia for a TMDL endpoint (and presumably to be used for a water quality standard) was overly protective.	Draper Aden Associates
Supports updating numerical criteria for aquatic life and human health protection based on EPA guidance.	CBF
<b>Comments – Mixing Zones</b>	
Eliminate allocated impact zones to prevent lethality to resident aquatic life. This would require acute criteria to be met at the outfall.	CBF
Prohibit new or expanded mixing zones for persistent bioaccumulative toxics (PBTs).	CBF

<b>Comments – Antidegradation</b>	
Require a parameter by parameter approach for antidegradation protection.	CBF
Strengthen implementation of Tier 2 as some degradation has occurred in Tier 2 waters without the required analysis of social or economic necessity.	SELC
Include a Tier 2.5 designation between tier 2 and 3.	CBF
Encourage placement of high quality wetlands as tier 3.	CBF
Clarify in the regulation that either SAV or water clarity may be used to determine use attainment (don't need both to do an assessment).	CBF

**Acronyms and Other Short Cuts Used in Table:**

**CBF** = Chesapeake Bay Foundation

**SELC** = Southern Environmental Law Center

**VAMWA** = VA Association of Municipal Wastewater Agencies

**Navy** = Naval Facilities Engineering Command, Atlantic

**VA Coalfields TMDL Group** = Alpha Natural Resources, LLC, Arch Coal, Inc., Cumberland Resources Corporation and affiliates, Dickenson-Russell Coal Company, LLC, Lee County Board of Supervisors, Lone Mountain Processing Company, Inc., Paramount Coal Company Virginia, LLC, Powell Mountain Coal Company, Powell River Water Quality Partnership, Twin Star Mining, Inc., Virginia Mining Association

**VMA** = Virginia Manufacturers Association

RESPONSE TO COMMENT (5/24/07): DEQ included all the organizations that requested to be on the ad hoc committee. Several issues were pursued (updating numerical criteria for aquatic life and human health protection based on EPA guidance, revisions of use designations). Total dissolved solids criterion was not developed due to comment. It was decided that antidegradation implementation comments did not need standards revisions; rather a change to agency policy. This will be discussed in a separate forum. All other comments were also discussed with the ad hoc.